

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

SANDRA CARDONA,

Plaintiff, CASE NO.: 0:24-cv-61337-AHS

vs.

NUTRITION FORMULATORS, INC., and
EMPLOYMENT SOLUTIONS OF NEW
YORK, INC.,

Defendants.

DEPOSITION OF: MARIA FABIANA SANTAELLA

DATE TAKEN: March 18, 2025

TIME: 10 a.m. - 1:55 p.m.

PLACE: Everyone appeared remotely
via Zoom

REPORTED BY: MELISSA FERNANDEZ
Notary Public

Everest Job No.: 38679

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S T I P U L A T I O N S

It is hereby agreed and so stipulated by and between the parties hereto, through their respective counsel, that the reading and signing of the transcript is expressly reserved by the Deponent.

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E X H I B I T S

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List of topics for Nutrition Formulators	10
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1 The deposition of MARIA FABIANA SANTAELLA, was taken
2 pursuant to notice by counsel for the Plaintiff on the 18th day
3 of March, 2025, commencing at 10 a.m. Said deposition was
4 reported by Melissa Fernandez, Court Reporter, Notary Public,
5 State of Florida at Large.

6 * * * * *

7 FERNANDO RIVERA NAVAS,
8 having been duly sworn to interpret from English to Spanish and
9 Spanish to English all testimony to the best of his ability.

10 THE INTERPRETER: Yes, I do.

11 * * * * *

12 MARIA FABIANA SANTAELLA
13 having been duly sworn, was examined and testified upon her
14 oath as follows:

15 THE WITNESS: Yes, I swear.

16 DIRECT EXAMINATION

17 BY MR. BARROUKH:

18 Q Good morning, Fabiana. How would you like me to
19 address you today?

20 A Fabiana will be just fine.

21 Q All right. Fabiana, could you please state your full
22 name and address for the record?

23 MR. PERERA: She's here as a corporate
24 representative. You don't need her personal address.
25 Fabiana, you can give them the NFI address.

1 MR. BARROUKH: Yeah, if you can give us the NFI
2 address, that's fine.

3 A Yes, my full name is Maria Fabiana Santaella.

4 BY MR. BARROUKH:

5 Q And what is your work phone number?

6 A Can you allow me to provide you with my address at
7 this time? My address will be 3260 Executive Way, Miramar,
8 Florida 33025.

9 Q Thank you. And what is your work phone number?

10 A (954) 272-2220.

11 Q Thank you, Fabiana. Now, I would like to let you
12 know at this time for the duration of this deposition I ask you
13 to not look at any documents or electronic devices for today's
14 deposition for the purpose of answering questions. If I want
15 you to answer a question based on a document, I will show the
16 document to you. Does that make sense?

17 A Yes.

18 Q Thank you. Now, what is your work email address,
19 please?

20 A My email address at work is fabiana@n as in Nancy, N
21 as in Nancy, FI.net.

22 Q Thank you. Now, Fabiana, have you ever given a
23 deposition before?

24 A No, never.

25 Q Now, I understand you were present at the depositions

1 yesterday, however, I would like to go over a few ground rules
2 again to hopefully make today's deposition more efficient and
3 run smoothly. Do you understand?

4 A Yes, I understand.

5 Q Now, the first rule is because we have a court
6 reporter here with us today, we must give audible answers,
7 meaning you cannot shake your head or go uh-uh or uh-huh to
8 respond to a question. Does that make sense?

9 A Yes.

10 Q And the second and most important rule of the day is,
11 again, because we have a court reporter present who is taking
12 down everything we are saying, I ask you to allow me to finish
13 and complete my question before you begin to provide an answer.
14 Even if you know what I am going to say, please allow me to
15 finish my question. Okay?

16 A Yes, I do agree.

17 Q And, similarly, I will give you as much time as you
18 need to completely respond to my question. Okay?

19 A Yes.

20 THE WITNESS: I do have a request for a petition from
21 you. Before we begin would you mind if I go and use
22 the bathroom?

23 MR. BARROUKH: Absolutely. Do you need three minutes
24 or five minutes?

25 THE WITNESS: Three minutes will suffice. That will

1 be good enough.

2 MR. BARROUKH: We'll meet back at 10:13 and we can
3 go off the record. Thank you guys.

4 (A recess was taken.)

5 MR. BARROUKH: Back on the record.

6 BY MR. BARROUKH:

7 Q All right. And the final ground rule I have for you
8 today is that if any question I ask you requires an answer for
9 you to tell me what you spoke to Freddy or another one of your
10 attorneys about, I ask you do not tell me what you spoke to
11 your attorneys about. Does that make sense?

12 A Yes.

13 Q Okay. Now, during this deposition your attorney may
14 object to my question. You may answer the question unless your
15 attorney specifically tells you do not to answer the question.
16 Does that make sense?

17 A Yes.

18 Q Now, you understand that although we are on Zoom your
19 testimony has the same force and effect as if we were in a
20 courtroom with a judge and jury present. Do you understand?

21 A Yes.

22 Q And at any point if you do not understand my
23 question, please ask me to clarify or rephrase my question,
24 otherwise, I will assume you understand what I am asking.
25 Okay?

1 A Yes.

2 Q And, again, my goal is not to keep you here today as
3 long as I can, but it may take a few hours. So during this
4 deposition if you need to take a break, please ask me and as
5 long as it is not during a sitting question or in a line of
6 questioning, I'm happy to give you a break. Okay?

7 A Yes.

8 Q Now, is there anything preventing you from testifying
9 clearly and truthfully here today?

10 A No.

11 Q And where are you conducting this deposition from
12 today?

13 A I'm appearing from Nutritional Formulators, 3260
14 Executive Way, Miramar, Florida.

15 Q And is anybody else --

16 MR. PERERA: Correction. It's Nutrition Formulators
17 she said, not Nutritional.

18 THE INTERPRETER: Thank you for correcting me, sir.
19 The interpreter stands corrected.

20 MR. PERERA: No problem. I only know that because
21 obviously I represent them.

22 THE INTERPRETER: Thank you.

23 BY MR. BARROUKH:

24 Q Now, is there anybody else in the room with you?

25 A No.

1 Q And did you do anything to prepare for today's
2 deposition?

3 MR. PERERA: I think you know this, Fabiana, but
4 anything that involves conversation with counsel, anything
5 that would reveal any of our strategies or sequence of
6 documents, you're not to reveal that.

7 THE WITNESS: It is fine.

8 BY MR. BARROUKH:

9 Q Now, again, my question was, did you do anything to
10 prepare for today's deposition?

11 MR. PERERA: Same instruction.

12 A No, I only actually joined my lawyer to the meeting
13 with my lawyer.

14 BY MR. BARROUKH:

15 Q And when did this meeting occur?

16 A It was Friday last week. It was March 15th.

17 Q And where did the meeting take place?

18 A At Nutrition Formulators.

19 Q And who was at the meeting?

20 A It was my attorney, Freddy Perera, and Nathaly
21 Saavedra. I'm not too sure about her last name.

22 Q I believe that's correct, Saavedra. Did you review
23 any documents prior to today's deposition for today's
24 deposition?

25 MR. PERERA: Same instruction as before.

1 A No, but I was present at yesterday's deposition,
2 though. I got to see some documentations that the attorney
3 Daniel Barroukh presented or showed. Besides that, nothing
4 else.

5 BY MR. BARROUKH:

6 Q Understood. So I'm going to show you what I've
7 marked as Plaintiff's Exhibit 1.

8 (Whereupon, Plaintiff's Exhibit 1 was marked for
9 identification.)

10 BY MR. BARROUKH:

11 Q Please let me know when you can see the screen.

12 A I see it.

13 Q Do you know what this document is? And I can zoom in
14 and scroll down for you if you would like, just let me know.

15 MR. PERERA: To the extent this isn't the complete
16 document, it looks like I can see it's a two-page
17 document which is only Schedule A, it doesn't have the
18 full document it came with.

19 MR. BARROUKH: Off the record for one moment, please.

20 (An off-the-record discussion took place.)

21 MR. BARROUKH: Back on the record, please, Ms. Court
22 Reporter.

23 BY MR. BARROUKH:

24 Q All right. Fabiana, what you're looking at now is
25 what will be marked as Plaintiff's Exhibit 1. Do you see the

1 document on the screen?

2 A Yes, I see it.

3 Q All right. Now, if we scroll down on the document
4 there is a list of topics for Nutrition Formulators' corporate
5 representative. Do you see that?

6 A Yes, I see it.

7 Q Have you seen this list of topics before today's
8 deposition?

9 A I've seen it before, yes.

10 Q And are you prepared to give testimony regarding the
11 topics listed in each paragraph?

12 A Yes.

13 Q Thank you. And do you understand that your testimony
14 and answers are not based only on your own personal knowledge
15 but also all knowledge known or reasonably available to
16 Nutrition Formulators?

17 A It is correct.

18 Q And you understand that you are here to testify on
19 behalf of Nutrition Formulators, Inc., one of the two company
20 defendants in this case?

21 A Yes.

22 Q And you understand that your answers and testimony
23 are binding on Nutrition Formulators, Inc., correct?

24 A Yes, I understand it.

25 Q Now, just to help speed along the deposition today,

1 whenever I make mention of Nutrition, the company, or NFI, you
2 understand that I'm referring to the Defendant Nutrition
3 Formulators, Inc., in this case, correct?

4 A Yes, I understand it.

5 Q Thank you.

6 MR. BARROUKH: Freddy, you can go ahead and stop
7 sharing your screen, please. Thank you.

8 BY MR. BARROUKH:

9 Q Now, Fabiana, what is your role or position with the
10 company?

11 A I am the general manager.

12 Q And how long have you been the general manager for
13 the company?

14 A Seven years.

15 Q Now, before we continue into your experience, what is
16 your level of English proficiency?

17 A Oh, I do speak it and I get to write it in the
18 technical form, but you can say I'm an intermediate level.

19 Q All right. So it is more comfortable for you to
20 provide responses in Spanish, correct?

21 A It is correct.

22 Q Now, did you work for the company before assuming the
23 role of general manager?

24 A Yes.

25 Q And what prior roles did you have for Nutrition

1 Formulators?

2 THE INTERPRETER: The lady, your witness, has asked
3 the interpreter whether she wants me to actually hear
4 short or long sentences. I let her know that she can
5 speak as long as she wishes. I'm prepared for it. Thank
6 you. It was a long rendition. My apologies on the
7 delay. The answer is as follows:

8 A Well, I actually had various roles within the
9 company. First of all, well, at the time when I got hired by
10 Nutrition, you know, I was providing my services, you know. It
11 was some type of service that was required within the company.
12 Then I developed myself within that position for a very short
13 time. More or less it could have been about a month I would
14 say.

15 Then there was a vacancy or an opening there at the job
16 for quality, you know, for the quality department. Then when I
17 did all that documentation, you know, it was a lot of filing
18 that needed to be done there and then I needed to organize some
19 documentations. Then another position opened up. It is called
20 regulatory specialist, that's what it's called. I applied for
21 that position and it was provided to me. I developed within
22 that position for approximately eight months.

23 Thereafter, you know, I spoke with the general manager, he
24 asked me if I can help coordinate some stuff with human
25 resources and he asked me if I could run both positions

1 parallel at the same time. I said, yes, I can do that. You
2 know, I felt I was able to do all that stuff at that time.
3 Then for some reason, human resources, that person stopped
4 working there at Nutrition. So then the owner asked me, the
5 owner of the company asked me -- offered me the job as the
6 general manager which I accepted.

7 Q All right. And, Fabiana, if you see me looking down
8 I'm just taking notes. I do not mean to be disrespectful.
9 Understood?

10 A It is just fine, sir.

11 Q Now, do you know the name of the role when you began
12 work for Nutrition Formulators, when you started providing
13 services for around one month?

14 THE INTERPRETER: The interpreter needed to clarify
15 the answer. It has been confirmed.

16 A Yes, when I started there I actually started as an
17 operator for packaging. Then that was back in, if I'm not
18 mistaken, it would be January 2016 or 2017. I am not precise
19 pertaining to that date, sir, but I can look it up in my
20 record.

21 BY MR. BARROUKH:

22 Q Understood. Now, how long did you work in the
23 quality department for after working as a packaging operator?

24 A A few months.

25 Q And did you supervise or manage any subordinates when

1 you worked in the quality department?

2 A No.

3 Q And when you assumed the role of regulatory
4 specialist for eight months, did you supervise or manage any
5 subordinates?

6 A No.

7 Q Now, did you carry a title following your regulatory
8 specialist position when the GM asked for help to coordinate
9 between himself and the HR?

10 A Unfortunately, I do not understand the question.
11 Would you mind repeating the question or rephrasing?

12 Q You told me that following your work as a regulatory
13 specialist you helped the general manager coordinate with human
14 resources; isn't that right?

15 A It is correct.

16 Q And what was your title, if you had one, when you
17 performed that work?

18 A I was human resources coordinator.

19 Q Understood. And how long were you the human
20 resources coordinator for?

21 A That could have been for a few years, a couple of
22 years.

23 Q From what year to what year were you the human
24 resources coordinator?

25 MR. PERERA: Objection to form.

1 A I really can't remember. Would you mind giving me a
2 minute so I can backtrack or think about it, please?

3 BY MR. BARROUKH:

4 Q Take as much time as you need.

5 A Thank you. Yes, it was 2016, 2017.

6 Q And what year did you begin work for Nutrition
7 Formulators?

8 A 2016.

9 Q So to confirm, you joined the company and became the
10 HR coordinator in the same year, correct?

11 A I believe so.

12 Q And in 2017 your role changed from the HR coordinator
13 position to the general manager position, correct?

14 A Yes, that is correct, but, you know, when I was
15 handling that HR, the human resources department as such, I
16 continued in handling the HR or human resources as my
17 responsibility. You know, basically I stayed there at
18 Nutrition there for some time because I saw that there was no
19 human resources department that existed there. When I noticed
20 that we actually needed a human resources department, that's
21 when I started looking for a person which would be able or
22 capable of handling such position.

23 Q And what year did you hire or did the company create
24 its human resources department?

25 A Honestly, I cannot remember exactly.

1 Q And is Barbara Fisher the head of Nutrition's human
2 resources today?

3 A No, she's not it.

4 Q Who is?

5 A It is Ms. Eliet Arana. The name spells as follows:
6 E-L-I-E-T, Eliet, last name, A-R-A-N-A, Arana.

7 Q And who was the prior HR head for the company?

8 A Barbara Fisher.

9 Q And was Barbara Fisher the first official head of
10 human resources for Nutrition?

11 A No.

12 Q Who was that?

13 THE INTERPRETER: Interpreter needed to clarify the
14 answer. It is as follows:

15 A Well, I can't seem to remember her name. I do know
16 that I have it in my records somewhere, but I cannot seem to
17 remember her name. The first person who actually had that
18 position in HR after me, I can't remember her name.

19 BY MR. BARROUKH:

20 Q And when did Nutrition introduce a company or
21 employee handbook?

22 THE INTERPRETER: That was a handbook, am I correct,
23 sir?

24 MR. BARROUKH: Yes.

25 THE INTERPRETER: Thank you.

1 A Oh, I don't know. You know, I can say that it's been
2 a long, long time, but I'm not able to tell you the date
3 exactly.

4 BY MR. BARROUKH:

5 Q Do you know how many employee handbooks, how many
6 versions of handbooks, Nutrition has had in the last five
7 years?

8 A Honestly, no, I wouldn't be able to tell you exactly.

9 Q Do you know if Nutrition has a new handbook every
10 year?

11 A No.

12 Q Do you know what handbook was in effect in 2023?

13 MR. PERERA: Form.

14 A No.

15 BY MR. BARROUKH:

16 Q All right. I'm going to go back to the list of
17 topics in Plaintiff's Exhibit 1 and direct your attention to
18 paragraph 13, please.

19 Do you have knowledge of Defendant's employee handbook
20 that was in effect during Plaintiff's employment?

21 A Well, honestly, I'm not able to remember exactly, you
22 know, which version existed at that time, but what I understand
23 and I know that there's a manual which includes politics,
24 procedures to be followed, you know, which is only updated
25 whenever it is needed or required. They do not create a new

1 one every single year.

2 MR. PERERA: Real quick, I'm going to object to
3 the translation of politica as politics. Politica in
4 this context means procedures.

5 THE INTERPRETER: Well, it would be procedural
6 norms or procedures to be followed, sir. The interpreter
7 stands corrected. Would you like for me to verify and
8 clarify what she meant by politics within that handbook,
9 sir?

10 MR. BARROUKH: Freddy, I think the interpreter is
11 asking you or I'm not sure if he's directing that question
12 to me.

13 MR. PERERA: I suppose it's going to come up again.
14 That's a term that has two translations, but clearly in
15 the employment content, politica is policies and
16 procedures.

17 MR. BARROUKH: Mr. Interpreter, if we can proceed
18 with that understanding of politica, that would be great.

19 THE INTERPRETER: Excellent, sir. Thank you.

20 MR. BARROUKH: Thank you.

21 THE INTERPRETER: You're welcome, sir.

22 A What I meant to say politics, I mean to say there's
23 policies pertaining to procedures that need to be applied.

24 BY MR. BARROUKH:

25 Q Understood. Now, who would have knowledge of

1 Defendant's employee handbook that was in effect during the
2 Plaintiff's employment?

3 A It would be the human resources department.

4 Q And was Barbara Fisher, the head of the human
5 resources department in 2023 when my client was working at
6 Nutrition Formulators?

7 A Yes, it is correct.

8 Q So Barbara Fisher would have knowledge of the
9 Defendant's employee handbook that was in effect during
10 Ms. Cardona's tenure with Nutrition, correct?

11 MR. PERERA: Objection. Calls for speculation.

12 A I would not be able to assure that.

13 BY MR. BARROUKH:

14 Q So to your knowledge would anybody -- strike that.
15 To your knowledge who, if not Barbara Fisher, would have
16 knowledge of the company's employee handbook that was in effect
17 during 2023?

18 A It should be Barbara Fisher.

19 Q So when I asked you at the beginning of this
20 deposition if you were prepared to testify about each topic,
21 did that include paragraph 13?

22 MR. PERERA: Objection. Argumentative.

23 A What is your question exactly?

24 THE INTERPRETER: Should I ask the question again,
25 sir?

1 BY MR. BARROUKH:

2 Q My question was whether you have knowledge of
3 Nutrition Formulators employee handbook that was in effect in
4 2023?

5 MR. PERERA: Objection to form.

6 A I responded to you that it was Barbara Fisher who was
7 in charge who had that knowledge about the handbook and all the
8 procedures that were in effect at that time.

9 BY MR. BARROUKH:

10 Q And do you know how many employee handbooks were in
11 effect for Nutrition Formulators in 2023?

12 A No, I do not know it.

13 Q So are you prepared to testify on behalf of the
14 company's knowledge of Defendant's employee handbook that was
15 in effect during Plaintiff's employment?

16 A The Plaintiff, the worker that used to work for us,
17 I do not understand that phrase.

18 Q Are you prepared to testify to having knowledge or
19 about the Defendant's employee handbook that was in effect from
20 June of 2023 to September 30th of 2023?

21 A I believe so. I do have the knowledge, but I'm not
22 exactly sure which version that handbook was being actually
23 applied back then. I know it's updated every now and then
24 whenever the company needs to actually modify or add certain
25 information norms or procedures within it.

1 Q Do you know when that -- do you know how many times
2 the company's employee handbook has been updated since
3 September of 2023?

4 A No, I do not know it.

5 Q And to clarify, sitting here today you do not have
6 knowledge of what version of the employee handbook was in
7 effect in 2023, correct?

8 A It is correct.

9 Q Do you review and approve the updates to the
10 company's employee handbook?

11 MR. PERERA: Form.

12 A Yes, of course, I read them. I get to read them as
13 any other employee from the company.

14 BY MR. BARROUKH:

15 Q But do you -- do you incorporate and suggest edits to
16 the employee handbook for the company?

17 MR. PERERA: Form.

18 A Well, yes, I have the capacity to do so, yes, but,
19 the review of such documents in the handbook, it's an attorney.

20 BY MR. BARROUKH:

21 Q And do you know if the employee handbook is
22 distributed to assignees of the company?

23 A Not assignee, I believe not, no.

24 Q Just to confirm, do you know what I mean when I use
25 the word assignee?

1 THE INTERPRETER: That was assigning, am I correct,
2 sir?

3 MR. BARROUKH: Assignee, A-S-S-I-G-N-E-E. Assignee.

4 THE INTERPRETER: Thank you for clarifying, sir.

5 A Well, yes, but I believe what you're referring to is
6 pertaining to a person that is not directly an employee from
7 Nutrition Formulators. He's not assigned. What it is is that
8 he's actually -- he has the job through another agency, job
9 agency who got him the job in this case. I believe he is not
10 an employee of us directly, but he's assigned. But I believe
11 that's what the attorney is referring to.

12 BY MR. BARROUKH:

13 Q Correct. Do you know if those individuals are given
14 an employee handbook to follow from the onset of their tenure
15 with the company?

16 MR. PERERA: Objection. Form.

17 A Yeah, the person, they're assigned by another agency
18 to work within us, they're given certain norms but we do not
19 provide them with the booklet or the manual per se. It is not
20 given to them. But they do have to follow certain norms,
21 though.

22 BY MR. BARROUKH:

23 Q Are you saying that assignees or individuals placed
24 at the company from a third-party agency do not have to sign or
25 abide by the employee handbook for Nutrition Formulators?

1 THE INTERPRETER: That was abide and sign, am I
2 correct, sir?

3 MR. BARROUKH: Yes.

4 MR. PERERA: Objection. Form.

5 A No, they're not obligated to sign it.

6 BY MR. BARROUKH:

7 Q Are they asked to sign it by the company?

8 A No.

9 Q Why not?

10 A Because they're not employees for Nutrition
11 Formulators.

12 Q So are you telling me then assignees of the company
13 do not need to follow the employee handbook for the company?

14 A Generally, companies that recruit personnel, you
15 know, and they actually assign for a company, Nutrition
16 Formulators, they explain to them the norms that they need to
17 follow and the process during the training process. They tell
18 them what they need to know, what they need to do, all the
19 norms that they need to follow, but they do not sign the book
20 because they're not directly employees for Nutrition, you know.
21 They do not receive our handbook.

22 MR. PERERA: Object to the translation there.

23 MR. BARROUKH: You cut off at the beginning, Freddy,
24 What did you say?

25 MR. PERERA: I'm objecting to the translation. The

1 testimony was that the agencies provide the background and
2 the rules of, basically, Nutrition Formulators. Then when
3 they are training at Nutrition Formulators, Nutrition
4 Formulators advises of them directly. The translation I
5 think suggest that during the training period that the
6 agency, you know, are the ones that tell them the rules
7 and regulations. That wasn't the testimony.

8 THE INTERPRETER: What? Sorry, sir. I will clarify
9 with the witness at this time if I may just to clarify the
10 issue.

11 MR. PERERA: That's not what I said.

12 THE INTERPRETER: What? Sir, may I please ask --
13 have you ask your question so I can confer with your
14 client, if I may, please? What is it that you need to
15 clarify, sir?

16 MR. PERERA: You are basically asking the question of
17 whether the agency is the one that provides the training.
18 That wasn't her testimony.

19 THE INTERPRETER: That's what I like to find out
20 because that's what your interpreter heard. Would you
21 mind if I clarify that issue, first of all?

22 MR. PERERA: Please do.

23 THE INTERPRETER: Thank you.

24 A They do not train them.

25 MR. PERERA: And, specifically, her testimony was not

1 in general. She's talking about as to NFI's policies and
2 procedures, okay, not just in general training. You can
3 re-ask the question and make sure we get the correct
4 answer.

5 A It is incorrect.

6 MR. PERERA: Give me one second. Give me one second,
7 please.

8 THE INTERPRETER: How would you like to clarify this
9 issue? Would you mind issuing another line of question
10 in order to clarify this discrepancy per se?

11 MR. PERERA: If the court reporter can just read back
12 the original question and then she's going to re-give you
13 the answer. I think you are conflating, you're mixing the
14 issue of the third-party agency and then during the
15 training who provides information about policies. If you
16 can listen to the answer as she makes the distinction,
17 please.

18 THE INTERPRETER: Mr. Barroukh, you are in control of
19 this depo. How would you like to proceed?

20 MR. BARROUKH: Freddy, if that is what she is saying,
21 I would be fine with that testimony being given by the
22 interpreter. If there's another issue that is bigger than
23 just that, maybe we can take a break and figure it out,
24 but I will be asking a line of questioning about the
25 assignments, about all of this, and it needs to happen one

1 way or another.

2 MR. PERERA: Well, again, I think the easiest way is
3 to just get the question, the original question, she's
4 going to answer it. And I think part of the problem is
5 obviously you and I Daniel live this case and so we
6 understand when she's making certain references. Someone
7 who doesn't and comes from the first time, I think it's
8 easy to just conflate the two issues of the third-party
9 agency and then NFI. But that's obviously a very
10 important point of distinction and the testimony. So if
11 we can just read back the question, if we can get a
12 nice slow answer and appropriate translation, I think that
13 will be great.

14 MR. BARROUKH: Sure. And if there are further issues
15 I can ask some questioning to clarify the third-party
16 agency, NFI, and any other entities that need to be made.

17 How about this, let's take a five-minute break.
18 Ms. Court Reporter take some time to go back to that
19 question and we can come back in five minutes.

20 (A recess was taken.)

21 MR. BARROUKH: Back on the record. If you can repeat
22 my question, please.

23 (The court reporter read back.)

24 MR. PERERA: Objection to form.

25 A It was a long rendition. My apologies for the delay.

1 I needed to ask for a pause. Thank you. Okay. Let me
2 explain. I'm going to explain this to you in which way we
3 actually handle this manual. It's only for employees. There's
4 many norms there and benefits too that are provided within the
5 handbook, however, you know, that's for a person that is with
6 the company. But it does not mean that the person -- it means
7 that we did not give training directly to that person and
8 because those persons are from another company, they're from an
9 outside company, they don't have the same benefits and they
10 don't have vacations as we do. They don't enjoy the same
11 benefits because they work for an outside company. They are
12 not direct employees.

13 But the company has many norms. The company actually
14 provides -- they actually -- we create supplemental dietary
15 items including those outside needs. They need to be trained
16 pertaining to sanitary norms. They need to follow those norms.
17 They're longer -- I mean, there's more norms in that handbook,
18 but we do get to explain some of it in this case, any person,
19 you know, we actually let them know if they have any
20 inconvenience or any problems they can go to HR or human
21 resources. We also explain to them, you know, generally.

22 Now, we have to train them too. It all depends the
23 position the person is going to fill in. They need more
24 specific training for some positions. It all depends on the
25 position that they're going to take. We call that SOPs. We

1 explain to them generally their rights, but they do not have to
2 sign the handbook, you know, for the company because they don't
3 enjoy those benefits because they are not direct employees.
4 But, you know, not many of the training is provided or given to
5 them.

6 MR. PERERA: I keep repeating that she is saying that
7 they didn't provide training which is not what she's
8 saying. If we can -- sir, let me finish, please, and then
9 no problem. I understand that, you know, I guess you let
10 the witness go on for a while before you interpret; I
11 think there's a lot that's being omitted. If I can
12 suggest in the witness's answers once we get, you know,
13 two or three sentences, let's stop and let's get the
14 translation, please, and that way we capture everything.

15 THE INTERPRETER: Very well, sir. In this case I
16 will advise the witness to speak in short and brief
17 sentences, not to be extensive with her answers if that's
18 okay with her. In the alternative, sir, I feel that
19 there's going to be a lot of objections that is being
20 made. I would rather ask for a replacement at this time,
21 if I may. Would you mind giving me three to five minutes
22 before I get a replacement, sir? I really appreciate it.
23 Thank you.

24 MR. PERERA: Thank you.

25 MR. BARROUKH: Thank you, Fernando.

1 THE INTERPRETER: You're welcome, sir. My apologies.
2 Thank you.

3 MR. BARROUKH: All right. So let's take a break for
4 another five minutes or maybe ten until we have a new
5 interpreter joining the call. Thank you.

6 (A recess was taken.)

7 * * * * *

8 DANIA MARQUEZ,
9 having been duly sworn to interpret from English to Spanish and
10 Spanish to English all testimony to the best of his ability.

11 THE INTERPRETER: Yes.

12 BY MR. BARROUKH:

13 Q Now, Fabiana, we were just discussing whether
14 assignees of Nutrition are asked and required to sign an
15 employee handbook. Do you recall that?

16 THE INTERPRETER: What was the very last, a manual?

17 MR. BARROUKH: Employee handbook.

18 A I don't remember. Yes, I remember. Yes, I remember.

19 BY MR. BARROUKH:

20 Q Could you please repeat your response with regards to
21 whether assignees for Nutrition are required to sign the
22 employee handbook?

23 A Yes, the employee -- the agency employees or the
24 employees assigned from Nutrition Formulators, they sign the
25 books, the employee books from the agency that the agency

1 provides to them.

2 Q So to be clear, these assignees are not required to
3 sign Nutrition's employee handbook, correct?

4 THE INTERPRETER: Assignee being a different word
5 now?

6 MR. BARROUKH: Assignees, A-S-S-I-G-N-E-E-S.

7 THE INTERPRETER: Thank you.

8 A No, they don't have that requirement.

9 BY MR. BARROUKH:

10 Q What other differences are there between Nutrition
11 Formulators employees and its assignees with respect to their
12 employment?

13 MR. PERERA: And just for the interpreter, you
14 don't have to interpret Nutrition Formulators in Spanish.
15 It's the name of the company so you can say Nutrition
16 Formulators.

17 THE INTERPRETER: Oh, it's the name of the company.
18 Thank you. Thank you, counsel. I was thinking that these
19 are two different types of employees. So the difference,
20 the last question was what is the differences between
21 the Nutrition Formulators employees and the assignees
22 employees?

23 MR. BARROUKH: I'll repeat my question.

24 BY MR. BARROUKH:

25 Q My question was: What other differences are there

1 between Nutrition Formulators employees and assignees?

2 A I am going to number various differences. Number one
3 is the benefits. The Nutrition Formulators employees have
4 benefits. They have vacations that the assignees don't have.
5 When Nutrition Formulators hire an employee, Nutrition
6 Formulators calls those employees directly to let them know
7 that they have been chosen for that position. When it's an
8 assignee, then the agency, the employment agency, gets in touch
9 with Nutrition Formulators and Nutrition Formulators contacts
10 the employee, the potential employee?

11 MR. PERERA: I'm going to object to that last
12 translation.

13 THE INTERPRETER: Pardon me, Counsel.

14 MR. PERERA: The statement was that when it's an
15 assignee, Nutrition Formulators speaks with the agency and
16 the agency notifies the employee as opposed to Nutrition
17 Formulators making direct contact with the worker. You
18 had like 95 percent of it right and then at the end I
19 think you said Nutrition Formulators contacts the
20 assignee.

21 THE INTERPRETER: I'm sure I made that mistake.
22 I'm jumping in.

23 MR. BARROUKH: Ms. Interpreter, there's no problem.
24 There's no rush. We can go as slow as we need. We have
25 some time. Okay?

1 THE INTERPRETER: Thank you.

2 THE INTERPRETER: The first difference that you spoke
3 to was about vacation. Nutrition Formulators will
4 communicate with the agency and the agency would
5 communicate with the assigned person. Thank you, counsel.

6 A When I have a direct employee from Nutrition
7 Formulators, Nutrition Formulators pays the employee directly.
8 When it's an assignee, Nutrition Formulators pays the agency of
9 contracting and the agency is in charge of paying the assignee.
10 Now, all of them, the employees and the assignees, they all
11 must comply with all common rules, regulations that are common
12 for everyone.

13 BY MR. BARROUKH:

14 Q Now, do the assignees sign any documents to that
15 effect?

16 MR. PERERA: Objection. Form.

17 A Yes.

18 BY MR. BARROUKH:

19 Q Do you know what the names of those documents are?

20 A Some are called procedures manuals, others are good
21 practices of manufacturing norms, regulations of good practices
22 of manufacturing, good practices of documentation, sanitation
23 and hygiene practices. And depending on the position, each
24 employee must complete a training and the assignees also must
25 complete it and sign that they received that training.

1 Q Then does Nutrition Formulators maintain and document
2 those signed statements from the assignees that they've
3 completed the training and reviewed the policies?

4 MR. PERERA: Objection. Form.

5 A Yes.

6 BY MR. BARROUKH:

7 Q Then why has that not been provided to me, to my
8 client to this point?

9 MR. PERERA: Objection to form.

10 A Your client, Sandra, stopped working here it has been
11 a while. It has been some time.

12 BY MR. BARROUKH:

13 Q Are you telling me that Nutrition has disposed of or
14 thrown out documentation with the company?

15 A No. No, I don't know. No. No.

16 Q Were you responsible for helping organize, select,
17 and produce documentation in this lawsuit?

18 MR. PERERA: Objection to form.

19 A Yes.

20 BY MR. BARROUKH:

21 Q Then where are those documents for my client that you
22 just referenced?

23 A As far as I remember she signed the SOPs and they
24 should be in the file.

25 Q I can represent to you that we do not have any SOPs

1 that she signed produced to our office by your law firm; do you
2 understand?

3 MR. PERERA: Objection. Form.

4 A Yes.

5 BY MR. BARROUKH:

6 Q Sitting here today do you have access to my client's
7 signed documentation from when she performed work at Nutrition?

8 MR. PERERA: Objection to form.

9 A Yes.

10 BY MR. BARROUKH:

11 Q And why has it not been produced to your attorney's
12 office? They have requested it.

13 MR. PERERA: Just a second. Any discussions that
14 we've had, Fabiana, you're not to disclose any discussions
15 with that. Also, as to the question as to what we
16 discussed with our clients, I'm pretty sure no one knows
17 other than us so the premise of the question I'll object
18 to as well.

19 MR. BARROUKH: I understand, but she did help
20 complete the discovery request, correct, from what she
21 told me and those documents were requested as part of
22 Plaintiff's discovery request.

23 MR. PERERA: Your question was why if your lawyer has
24 asked for that you didn't turn it over. You don't know
25 what we asked for or we didn't.

1 MR. BARROUKH: Understood. Understood.

2 BY MR. BARROUKH:

3 Q Fabiana, do you still have access to Sandra Cardona's
4 personnel file sitting here today?

5 MR. PERERA: I'll object to the term personnel file.
6 You can answer the question.

7 A Yes.

8 BY MR. BARROUKH:

9 Q Have you produced my client's personnel file at this
10 time in the lawsuit?

11 THE INTERPRETER: Did you produce, was that the
12 question, Counsel?

13 BY MR. BARROUKH:

14 Q Have you produced my client's entire personnel file
15 at this time in the lawsuit?

16 MR. PERERA: Objection. Form.

17 A Yes.

18 MR. BARROUKH: Off record for one moment, please.

19 (An off-the-record discussion took place.)

20 BY MR. BARROUKH:

21 Q Fabiana, I'm going to show you what I've marked as
22 Plaintiff's Exhibit 2.

23 (Whereupon, Plaintiff's Exhibit 2 was marked for
24 identification.)

25 BY MR. BARROUKH:

1 Q And let me know when you can see the document.

2 A Yes, I can see it. I see it.

3 Q Do you know what this document is?

4 A Yes.

5 Q What is this document?

6 A It's an interrogatory.

7 Q That is not correct. Let me represent to you that
8 this is Nutrition Formulators' First Responses to Plaintiff's
9 First Request For Production. Do you understand?

10 MR. PERERA: Fabiana, so you're clear and not
11 confused, interrogatories are documents that you sign for.
12 The responses and objections to this document, which is
13 asking for documents, we sign for as the lawyers.

14 A I understand, but can I see it completely because I
15 can only see the title?

16 BY MR. BARROUKH:

17 Q Yes. It's 20 pages. Would you like for me to scroll
18 through the whole document?

19 A Yes, please.

20 Q Would you like to read the whole document or just let
21 me scroll -- allow the interpreter to translate, please. Would
22 you like me to provide you time to read the whole document or
23 just scroll through the whole document?

24 A I just want to see it.

25 Q Okay. Now, the difference between the

1 interrogatories that you mentioned and these Requests For
2 Productions is that interrogatories are written questions that
3 warrant a written response. These Requests For Production are
4 a written request for documents that generate certain responses
5 in addition to documents being sent as well. Do you
6 understand?

7 THE INTERPRETER: Counsel, if you don't mind
8 repeating. Interrogatories are written questions.

9 MR. BARROUKH: Written questions that require
10 written responses. Request For Production is a written
11 request seeking documents that respond to the written
12 request.

13 BY MR. BARROUKH:

14 Q Do you understand?

15 A Yes.

16 Q All right. Now, we have asked for all written job
17 descriptions or any other documents that relate or pertain to
18 the work duties and their responsibilities to each position
19 held by the Plaintiff during the course of her employment with
20 Defendant. Do you see that?

21 A Yes.

22 Q Now, this was objected to because your lawyers state
23 Plaintiff was not employed by Defendant in part. Do you
24 understand that?

25 A Yes.

1 Q Now, if this was changed to "during the course of her
2 assignment with Defendant", what would your response be?

3 MR. PERERA: So that's a question for a lawyer. She
4 wouldn't be responding to these interrogatories, we would.
5 And the only way she would know the answer is through
6 discussions with us so you're not to answer that question,
7 Fabiana.

8 BY MR. BARROUKH:

9 Q Fabiana, I'm going to ask you a question. Do you
10 have documents that pertain to my client's assignment with
11 Nutrition Formulators?

12 A Any type of document? I don't understand the
13 question.

14 Q That's correct.

15 MR. PERERA: Objection.

16 A Yes, there are documents related to your client.

17 BY MR. BARROUKH:

18 Q Are there documents including those she signed
19 acknowledging company policies?

20 A I believe so.

21 Q And do you have access to those documents sitting
22 here today?

23 A Yes.

24 Q And what do those include?

25 MR. PERERA: Objection. Form.

1 A I would have to look at them.

2 BY MR. BARROUKH:

3 Q Do you know what those documents are typically
4 inclusive of?

5 MR. PERERA: Object to form.

6 A Typically, there's always filled out and signed
7 employment application, safety regulations, general policies.

8 BY MR. BARROUKH:

9 Q And do you require all assignees or employees to
10 complete those documents? And when I say you I'm referring to
11 the company.

12 MR. PERERA: Form.

13 A The employment application, yes, I'm 100 percent sure
14 that it must be done. And human resources explains to the
15 employees about the general policies when they start.

16 BY MR. BARROUKH:

17 Q And are they allowed to begin work without signing
18 the policies, SOPs, and safety acknowledgments?

19 MR. PERERA: Objection to form.

20 A They have to read them. They have to read the good
21 manufacturing practices. They have to read the good
22 documentation practices.

23 BY MR. BARROUKH:

24 Q And do you believe that those documents should be
25 included in a personnel file for the individual who signed

1 them?

2 MR. PERERA: Objection. Form.

3 A No, if it's a person assigned by the agency, no.

4 BY MR. BARROUKH:

5 Q Why not?

6 A It's an employee from the agency. It's not an
7 employee from Nutrition Formulators.

8 Q So why would the documents they sign for Nutrition
9 Formulators not be in their files at Nutrition Formulators?

10 MR. PERERA: Form.

11 A They are not employees from Nutrition Formulators.

12 BY MR. BARROUKH:

13 Q Do you maintain personnel files for assignees at
14 Nutrition Formulators?

15 A Yes.

16 Q Well, why would you have those at Nutrition
17 Formulators if they're not employees of the company?

18 MR. PERERA: Objection. Argumentative.

19 A It's important to have the telephone number of the
20 person and certain data from the person in case of an
21 emergency, emergency contact also, and for those reasons those
22 files are maintained.

23 BY MR. BARROUKH:

24 Q What else is included in the assignees' personnel
25 file with Nutrition Formulators at Nutrition Formulators?

1 MR. PERERA: Objection. Form. I just want to note
2 real quick, a lot of these questions are outside of the
3 topics. I'm trying not to interrupt, but I'm going to
4 have to start, you know, drawing the lines that are in the
5 corporate rep topics at some point.

6 A Besides the employment application, in the employment
7 application there is all the information that we require from
8 the person in case of an emergency. Everything is there.

9 MR. BARROUKH: And, for the record, Freddy, this is
10 not outside of the scope of the corporate rep list. Let
11 me show you the corporate rep list which I previously
12 marked as Plaintiff's Exhibit 1 ask for whether the
13 corporate rep has knowledge related to each and every
14 document provided in paragraph 1 and 2, knowledge related
15 to each and every interrogatory response, and number 3, as
16 well as countless other requests for knowledge of
17 information about her job performance, reviews,
18 evaluations, duties, what the company ask of her and
19 whatnot. That is absolutely maintained and should be
20 maintained in her personnel file and that is why I'm
21 asking those questions. Those questions are similarly
22 presented in her interrogatories and in her Requests For
23 Production which is included in the corporate
24 representative list.

25 MR. PERERA: Example, on one it talks about knowledge

1 related to each and every document provided by Defendant
2 in response to Plaintiff discovery request. You've asked
3 a series of questions of what should be in a personnel
4 file in general, you're not talking about the personnel
5 file that was produced in response here. That's why I
6 objected. And that's outside the scope. And, again, I'm
7 not here to -- you know, I think most lawyers would box
8 you in completely to it. I'm just letting a lot go, but
9 I'm letting you know that I am going to be looking at the
10 topics more closely just because we're wasting a lot of
11 time with these questions.

12 MR. BARROUKH: That's fair, but I believe that her
13 responses are not as clear as they probably could be and
14 that's why we're also wasting some time here.

15 MR. PERERA: I disagree. You're asking questions
16 about what should be in the personnel file. There was a
17 series of questions on that. It's just not in the scope
18 of the topics.

19 MR. BARROUKH: Agree to disagree on that.

20 BY MR. BARROUKH:

21 Q Now, Fabiana, what is maintained in the Nutrition
22 employees' personnel files that is not maintained in its
23 assignees personnel files?

24 MR. PERERA: Example, contrasting those two things
25 are not in the topic. I'm going to let this one go as

1 well, but I'm telling you I'm going to instruct her not to
2 answer going forward.

3 MR. BARROUKH: Listen, Freddy, I understand to an
4 extent what you're saying, but at the same time this is
5 not only relevant, there's an argument easily for it to be
6 within the topics, and I don't think this is the
7 appropriate place to get into that argument. I think it's
8 a reasonable fair question. I'm not pushing and this
9 should not be an issue.

10 MR. PERERA: That's not the question. The question
11 is not whether it's relevant or it's a good question or a
12 bad question. The question is, is it within the scope of
13 the topics. We know what the purpose of the corporate
14 rep depo is and just because now you think it's relevant,
15 if it's not in the topics, it's not appropriate.

16 MR. BARROUKH: Well, I've asked about the knowledge
17 of employees handbooks, knowledge of the policies and
18 procedures and she's saying the policies and procedures
19 are to have these assignees and employees sign certain
20 documents. Now I'm asking about those documents, where
21 they're maintained and where they're stored and where
22 they're kept in the files if that's the case. That's
23 completely tied into the topics.

24 MR. PERERA: Respectfully, that's not your question.
25 You're asking her at this point to contrast what is in an

1 employee personnel file and what's in the file of an
2 assignee. There's no topic that I'm aware of in the list
3 that you provided that addresses that. As a courtesy,
4 I'll allow her to answer. I'm just letting you know that
5 I don't want to keep interrupting and that if it continues
6 to be an issue I have no choice but I'm going to have to
7 do it. That's all I'm saying.

8 MR. BARROUKH: I understand. And, listen, I
9 appreciate the courtesy, but with all due respect,
10 courtesy or not, I think that this does fall within the
11 topics. If we need to get a determination on that, that's
12 fine, because I presented a list asking about policies,
13 about handbooks, about all of these different procedures
14 that the company has, and this absolutely should be within
15 that umbrella.

16 MR. PERERA: Again, when you're talking about --
17 your question, again, is not talking about those things.
18 You're saying what's in an employee personnel file,
19 what's in an assignee's file and I want you to contrast
20 those things. That's not within any of the topics.

21 MR. BARROUKH: That is a policy that they maintain.

22 MR. PERERA: That is a policy?

23 MR. BARROUKH: That's what she said. It's not a
24 company policy to put assignee documents in a personnel
25 file. That's what she was explaining to me. That's a

1 policy.

2 MR. PERERA: She explained what the practice is.

3 Okay?

4 MR. BARROUKH: That's a procedure, a policy or
5 procedure, and that is found throughout this corporate
6 representative topic list.

7 MR. PERERA: Again, try to construe as broadly as you
8 want. I continue to maintain that that's out of bounce,
9 but, go ahead, Fabiana can answer the question.

10 MR. BARROUKH: Ms. Court Reporter, can you read back
11 the question? Actually, that's fine. I can go ahead and
12 repeat the question.

13 BY MR. BARROUKH:

14 Q Fabiana, what is the difference in the company's
15 procedure in filing documents related to assignees versus
16 employees?

17 MR. PERERA: Objection. Form.

18 A A direct employee of the company, in his file
19 vacations are filed, banking information from the employee to
20 do direct deposit, promotions, warnings, evaluations are done,
21 those type of things. When it's a direct employee that's what
22 typically is found in the file of a direct employee.

23 BY MR. BARROUKH:

24 Q What else is found there?

25 A If the person has had any work accident, work-related

1 accident, if the person has had a verbal warning also. Yes,
2 that's what I think is filed, yes.

3 Q So when you say work accidents, does that include the
4 employees report to the company?

5 MR. PERERA: Objection. Form.

6 A We have a form that it has to be filled out when an
7 employee, for example, falls.

8 BY MR. BARROUKH:

9 Q And what about for an employee's report of
10 discrimination, harassment, or retaliation?

11 A It should also be in the employee file.

12 Q Now, with respect to the assignees, where do you
13 maintain their records or the vacation, benefits, the verbal
14 and written warnings, evaluations, workplace injury forms and
15 reports of unlawful activity? And we can break that down one
16 by one if you need.

17 MR. PERERA: Objection. Form.

18 THE INTERPRETER: Counsel, I mentioned vacations,
19 verbal and written warnings.

20 MR. BARROUKH: Vacations, benefits, verbal and
21 written warnings, evaluations, workplace injury forms, and
22 forms for reports of unlawful activity.

23 A Could we go one by one?

24 BY MR. BARROUKH:

25 Q Absolutely.

1 A Vacations, an assignee does not have the luxury of
2 vacations from Nutrition Formulators.

3 Q Next, benefits, please?

4 A They also don't have benefits.

5 Q Next, the verbal and written warnings.

6 A They should be in the file. Those should be in the
7 file.

8 Q To be clear, are those verbal and written warnings
9 issued to the assignee or made by the assignee?

10 MR. PERERA: Form.

11 A It is made for him. The company does a warning for
12 the assignee and it should be in the file.

13 BY MR. BARROUKH:

14 Q And where would it be if it's not in the file.

15 MR. PERERA: Objection to form.

16 A It should be in the file. If there was one, if one
17 existed, it should be in the file.

18 BY MR. BARROUKH:

19 Q Okay. Next, where would the assignees' evaluations
20 be?

21 MR. PERERA: Objection. Form.

22 A The evaluation for an assignee is done when the
23 assignee has completed the assigned hours and Nutrition
24 Formulators would want to leave them as a direct employee.

25 BY MR. BARROUKH:

1 Q Now, are any other performance evaluations completed
2 by the company prior to that point?

3 MR. PERERA: Objection. Form.

4 A No.

5 BY MR. BARROUKH:

6 Q Now, for assignees would their reports of workplace
7 injuries be found in their file?

8 A Yes. The difference is that Employment Solutions has
9 their own form to be filled out, but it should be in the file,
10 in the personnel file of the assignee.

11 Q I appreciate you jumping ahead, but my question is
12 not with regards to Employment Solutions at this time and
13 mentions of Employment Solutions at this time are not proper.
14 I am not asking about them. I am not specifically asking about
15 my client at this time, even though I know you anticipate where
16 my questions will go in the future, that is not what I'm asking
17 about right now. Okay?

18 MR. PERERA: I'm going to object to that instruction.
19 The question necessitated the mention of Employment
20 Solutions. The witness said that they keep a record of it
21 but the form that is filled out is an Employment
22 Solutions' form provided by Employment Solutions so
23 there's no way she can answer that question without
24 mentioning that. So as to the witness, you can mention
25 Employment Solutions if it's relevant to whatever question

1 you're being asked.

2 MR. BARROUKH: That's fine.

3 BY MR. BARROUKH:

4 Q Let me ask you this, Fabiana -- first and foremost,
5 let's finish the last category. Where would the assignees'
6 reports of unlawful activity be found?

7 MR. PERERA: Objection. Form.

8 A Can you define unlawful activities?

9 BY MR. BARROUKH:

10 Q They're the same ones I mentioned previously,
11 discrimination, retaliation, and harassment.

12 MR. PERERA: Objection. Form.

13 A If they would be there they should be filed in the
14 personnel file.

15 BY MR. BARROUKH:

16 Q So to be clear, although an assignee is not an
17 employee, they would still have a personnel file with Nutrition
18 Formulators, correct?

19 MR. PERERA: Objection. Form.

20 A Correct.

21 BY MR. BARROUKH:

22 Q And sitting here today do you have access to my
23 client's personnel file?

24 A Yes, human resources has it.

25 Q Are you aware that we have previously requested my

1 client's entire personnel file during this proceeding?

2 MR. PERERA: Fabiana, if any part of your answer
3 requires you to rely upon any discussions that we've had,
4 you're not to disclose that. That's precisely what can't
5 be disclosed, what we discussed.

6 A Understood.

7 MR. BARROUKH: Could you tell me what she said,
8 though, just for the record because I do not understand
9 what she said.

10 MR. PERERA: She said what our discussions were which
11 is privileged.

12 MR. BARROUKH: Okay. I understand that that's
13 privileged, I just need to understand what she's saying.

14 MR. PERERA: That's fine.

15 BY MR. BARROUKH:

16 Q Now, Fabiana, to be clear, if the verbal and written
17 warnings issued by Nutrition Formulators to my client are not
18 found in her personnel file, does that mean there were no
19 verbal or written warnings issued to my client when she
20 performed work at Nutrition Formulators?

21 MR. PERERA: Objection. Calls for speculation.

22 There's no way to answer that question.

23 A It should be there, but, now, if it's not there, I
24 cannot assure you that it didn't exist.

25 BY MR. BARROUKH:

1 Q Would anybody have thrown away the records of verbal
2 or written warnings from her personnel file?

3 MR. PERERA: Objection. Form.

4 A No.

5 BY MR. BARROUKH:

6 Q You have not deleted any documents from Ms. Cardona's
7 personnel file, correct?

8 A No, I have not done that.

9 Q Who has access to the assignees' personnel files at
10 Nutrition Formulators?

11 MR. PERERA: Objection. Form.

12 A Eliet Arana who is the human resources manager and
13 Ana Rodriguez who is the human resources coordinator.

14 BY MR. BARROUKH:

15 Q And have you ever asked Ana or Eliet to delete
16 documents in my client's personnel file?

17 A No.

18 Q Now, what other differences are there at Nutrition
19 Formulators between its employees and its assignees?

20 MR. PERERA: Objection to form.

21 A Differences in general?

22 BY MR. BARROUKH:

23 Q Any difference that you believe is important.

24 MR. PERERA: Objection. Form.

25 A Not that I can think of at this moment.

1 BY MR. BARROUKH:

2 Q Now, you told me that you've been working as the
3 general manager for seven years, correct?

4 MR. PERERA: Form.

5 A Yes, around six or seven years, that is correct.

6 BY MR. BARROUKH:

7 Q What training did you have for the general manager
8 position?

9 MR. PERERA: This is another example of a topic
10 that's beyond the scope that was requested, but you can
11 answer that.

12 A When you talk about training is it training in
13 Nutrition Formulators?

14 BY MR. BARROUKH:

15 Q Any training that you believe allows you to perform
16 the role of general manager properly.

17 A Before coming over here I was the CEO of two
18 companies in Venezuela. They were companies that worked for
19 Nestle in Venezuela, an outsourcing company.

20 Q And did you train the managers and supervisors at
21 Nutrition Formulators in any way, shape, or form?

22 MR. PERERA: Objection to form.

23 A As far as general policies, in the material as far as
24 their --

25 THE COURT REPORTER: I'm sorry, I didn't get that.

1 A -- competitions as managers. For instance, if that
2 person is a chemist, that person comes already trained as a
3 chemist, but I train them on our procedures.

4 MR. PERERA: Object to the translation to
5 competition. The word used was competencia which as
6 mentioned by the witness is talking about she didn't train
7 them on the competency of their specialization. So that
8 word could be competition or competency. In that context,
9 I'll submit that she meant in competency.

10 A I trained them in reference to the norms in policies
11 of the company.

12 THE INTERPRETER: I just explained the difference
13 between just a regular conversation and something that's
14 being put on a transcript. It's causing me to make
15 mistakes. Madam court reporter, is there something that
16 we need to clarify?

17 MR. PERERA: My only point was that the translation
18 to that, I didn't train them on their competition, that
19 the translation is on their competency is the appropriate
20 translation.

21 THE INTERPRETER: Right. Because she said
22 competition of managers, but it's competency of their
23 position.

24 MR. PERERA: Exactly. It's confusing because you
25 can say both to that word, competition, competency.

1 THE INTERPRETER: Thank you, counsel.

2 MR. BARROUKH: Off the record for one minute, please.

3 (An off-the-record discussion took place.)

4 BY MR. BARROUKH:

5 Q Now, for the record, I believe that there are
6 significant discrepancies between the testimony you've given
7 today and yesterday by the corporate representative and
8 Mr. Octavian Ion with regards to Defendant's discovery response
9 and the documents produced by the Defendant, Nutrition
10 Formulators. I believe that we cannot have a productive and
11 efficient deposition moving forward without the further
12 documents being produced at this time. If I cannot obtain
13 those records from my client's personnel file that should be
14 there as per the testimony given, this deposition will end and
15 we will have to go to the judge.

16 MR. PERERA: To be clear, as I made clear off the
17 record, I believe Nathaly did as well, we completely
18 disagree with your assessment. In fact, we disagree with
19 your interpretation of what the testimony has been to
20 date. Our position is, and remains, you have received the
21 full file for this assigned worker. You can make whatever
22 decision you want, sir. Obviously, we'll respect that. I
23 will note starting tomorrow I'll be overseas until the
24 29th so we'll respect whatever your decision is and
25 very much disagree.

1 MR. BARROUKH: Understood. I just believe that
2 Fabiana, the corporate rep, has stated my client has
3 assigned SOPs and other key documents and as Octavian
4 Ion stated he issued verbal warnings to my client and at
5 least one critical warning to my client, all which are
6 relevant and necessary for the purposes of this case and
7 none of which have been produced to my office at this
8 time. I believe that the discovery response to my office
9 and the Plaintiff's First Request For Production indicates
10 that there are documents being withheld at this time
11 and unless that is amended and changed or unless we can
12 receive the signed SOPs and other documents and the
13 warnings, including the critical verbal and other written
14 warnings, this will not be a productive, efficient or
15 beneficial deposition at this time, and I do not want to
16 waste your time, Mr. Perera, waste the court reporter's
17 time, my time or anything else. And I believe those are
18 crucial for the purpose of this case.

19 MR. PERERA: Yeah. So, again, in terms of the file,
20 you've got it. There's no issue there. Whether you
21 want to gripe as to whether something should be done or
22 not be done in accordance with practice or policy, that's
23 obviously something that can be done through the merits of
24 the case. And so I think it's the wrong decision. I
25 personally think it's a little dangerous on behalf of the

1 Plaintiff to terminate it. We have the witness ready,
2 prepared to continue to testify. I specifically made sure
3 to make this happen before I go on vacation with my family
4 and kids who I think deserve that.

5 MR. BARROUKH: Of course. This is not a personal
6 decision, Freddy. I absolutely understand and see where
7 you're coming from. I just do not believe I can represent
8 my client to the best of my ability with this lingering
9 issue. I understand your position. I hope you can
10 respect and understand mine. At this time we will be
11 adjourning and continuing the deposition for a later time.

12 MR. PERERA: Just to be clear on the record, we
13 object to any second deposition. All right.

14 MR. BARROUKH: That's fine. We can go ahead and
15 bring that up for the judge to decide as well. Thank you.

16 MR. PERERA: Thank you very much. Special thanks
17 to the interpreter for jumping in in the middle of this.
18 I know it's not an easy job, probably intimidating when
19 the last guy tells you I tapped out. You did a fine job.
20 Everyone have a good day.

21 (At 1:55 p.m., no further questions were propounded
22 to this witness.)
23
24
25

CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, MELISSA FERNANDEZ, Court Reporter, Notary
Public, State of Florida, certify that the interpreter,
FERNANDO RIVERA NAVAS, remotely appeared before me on the 18th
day of March, 2025 and was duly sworn.

WITNESS my hand and official seal this 18th day of
March, 2025.



MELISSA FERNANDEZ
Notary Public - State of Florida
Commission No.: HH 278990
My Commission Expires: 6/21/2026

CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, MELISSA FERNANDEZ, Court Reporter, Notary
Public, State of Florida, certify that the interpreter, DANIA
MARQUEZ, remotely appeared before me on the 18th day of March,
2025 and was duly sworn.

WITNESS my hand and official seal this 18th day of
March, 2025.



MELISSA FERNANDEZ
Notary Public - State of Florida
Commission No.: HH 278990
My Commission Expires: 6/21/2026

CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, the undersigned authority, certify that MARIA FABIANA
SANTAELLA remotely appeared before me and was duly sworn.

WITNESS my hand and official seal this 18th day of
March, 2025.



MELISSA FERNANDEZ
Notary Public - State of Florida
Commission No.: HH 278990
My Commission Expires: 6/21/2026

REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, MELISSA FERNANDEZ, Court Reporter, certify
that I was authorized to and did stenographically report
the foregoing deposition, and that the transcript is
a true record of the stenographic notes.

I further certify that I am not a relative,
employee, attorney, or counsel of any of the parties,
nor am I a relative or employee of any of the parties'
attorney or counsel connected with the action, nor am
I financially interested in the action.

Dated this 26th day of March, 2025.



MELISSA FERNANDEZ
Court Stenographer

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(Melissa Fernandez)

PLEASE DISTRIBUTE TO: Daniel J. Barroukh, Esquire
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olivia.diazdevillegas@csklegal.com

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DATE

March 26, 2025

MARI FABIANA SANTAELLA
J. Freddy Perera, Esquire
freddy@bpa-law.com
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Suite 4107
12555 Orange Drive
Davie, Florida 33330

RE: SANDRA CARDONA v. NUTRITION FORMULATORS, INC. and
EMPLOYMENT SOLUTIONS OF NEW YORK, INC.

Dear Mr. Perera:

The deposition of MARIA FABIANA SANTAELLA taken on the 18th day of March, 2025, in the above-styled case has been transcribed. Please follow the Options below coinciding with your transcript copy choice:

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cc: Daniel J. Barroukh, Esquire
Olivia E. Diaz deVillegas, Esquire

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manage (2)	Navas (3)	sklegal.com (1)	petition (1)
manager (11)	necessary (1)	omitted (1)	phone (2)
managers (3)	necessitated (1)	once (1)	phrase (1)
manual (4)	need (22)	ones (2)	PLACE (6)
manuals (1)	needed (7)	onset (1)	placed (1)
manufacturing (3)	needs (3)	opened (1)	Plaintiff (8)
March (11)	Nestle (1)	opening (1)	Plaintiff's (16)
MARI (1)	never (1)	operator (2)	please (34)
MARIA (8)	NEW (7)	opposed (1)	PLLC (1)
MARK (1)	NFI (5)	opposing (1)	point (7)
marked (6)	NFI's (1)	OPTION (2)	policies (14)
Marquez (3)	nice (1)	Options (1)	policy (6)
	normal (1)	Orange (2)	politica (4)

politics (4)
 position (19)
 positions (2)
 potential (1)
 practice (2)
 practices (6)
 precise (1)
 precisely (1)
 premise (1)
 prepare (2)
 prepared (6)
 present (4)
 presented (3)
 pretty (1)
 preventing (1)
 previously (3)
 prior (4)
 privileged (2)
 probably (2)
 problem (4)
 problems (1)
 procedural (1)
 procedure (3)
 procedures (13)
 proceed (2)
 proceeding (1)
 process (2)
 produce (2)
 produced (8)
 Production (6)
 Productions (1)
 productive (2)
 proficiency (1)
 promotions (1)
 promptly (1)
 proper (1)
 properly (1)
 propounded (1)
 provide (7)
 provided (8)
 provides (4)
 providing (2)
 Public (7)
 purpose (3)
 purposes (2)
 pursuant (1)
 pushing (1)
 put (2)

< Q >
 quality (4)
 question (57)
 questioning (3)
 questions (13)
 quick (2)

 < R >
 READ (16)
 reading (2)
 ready (1)
 Real (2)
 really (2)
 re-ask (1)
 reason (1)
 reasonable (1)
 reasonably (1)
 reasons (1)
 recall (1)
 receive (2)
 received (2)
 recess (3)
 record (16)
 records (4)
 recruit (1)
 reference (1)
 referenced (1)
 references (1)
 referring (4)
 regarding (1)
 regards (3)
 re-give (1)
 regular (1)
 regulations (4)
 regulatory (4)
 relate (1)
 related (5)
 relative (2)
 relevant (5)
 rely (1)
 remains (1)
 remember (10)
 remotely (4)
 rendition (2)
 rep (6)
 repeat (4)
 repeating (3)
 rephrase (1)
 rephrasing (1)

replacement (2)
 report (3)
 REPORTED (2)
 REPORTER (15)
 reporter's (2)
 reports (4)
 represent (4)
 representative (5)
 Request (11)
 requested (4)
 Requests (4)
 require (3)
 required (5)
 requirement (1)
 requires (2)
 reserved (1)
 resources (20)
 respect (6)
 Respectfully (1)
 respective (1)
 respond (3)
 responded (1)
 responding (1)
 Response (9)
 responses (6)
 responsibilities (1)
 responsibility (1)
 responsible (1)
 retaliation (2)
 RETURN (1)
 reveal (2)
 review (3)
 reviewed (1)
 reviews (1)
 right (14)
 rights (1)
 Rivera (3)
 Rodriguez (1)
 role (6)
 roles (2)
 room (1)
 rule (3)
 rules (4)
 run (2)
 rush (1)

 < S >
 SAAVEDRA (3)
 safety (2)

SANDRA (5)
 sanitary (1)
 sanitation (1)
 SANTAELLA (9)
 saw (1)
 saying (10)
 Schedule (1)
 scope (5)
 Scott (1)
 screen (3)
 scroll (5)
 se (2)
 seal (3)
 second (5)
 see (17)
 seeking (1)
 seen (2)
 select (1)
 send (1)
 sense (4)
 sent (1)
 sentences (3)
 September (2)
 sequence (1)
 series (2)
 service (1)
 services (2)
 Seven (3)
 shake (1)
 shape (1)
 sharing (1)
 SHEET (6)
 short (3)
 show (4)
 showed (1)
 SIGN (20)
 SIGNATURE (1)
 signed (9)
 significant (1)
 signing (2)
 similarly (2)
 single (1)
 sir (21)
 sitting (6)
 six (1)
 slow (2)
 Smith (1)
 smoothly (1)
 SOLUTIONS (11)

SOPs (6)	< T >	translations (1)	Way (10)
Sorry (2)	take (9)	true (1)	week (1)
South (1)	TAKEN (6)	truthfully (1)	welcome (2)
SOUTHERN (1)	talk (1)	try (1)	Well (17)
Spanish (8)	talking (5)	trying (1)	we're (2)
speak (3)	talks (1)	turn (1)	we've (2)
speaks (1)	tapped (1)	two (7)	whatnot (1)
Special (1)	technical (1)	two-page (1)	wishes (1)
specialist (4)	telephone (1)	type (3)	withheld (1)
specialization (1)	tell (7)	types (1)	WITNESS (17)
specific (1)	telling (3)	typically (3)	witness's (1)
specifically (4)	tells (2)	< U >	word (5)
speculation (2)	ten (1)	uh-huh (1)	work (19)
speed (1)	tenure (2)	uh-uh (1)	worked (2)
spells (1)	term (2)	umbrella (1)	worker (3)
spoke (4)	terminate (1)	undersigned (1)	working (5)
stands (2)	terms (1)	understand (34)	workplace (3)
start (2)	testified (1)	understanding (1)	work-related (1)
started (4)	testify (5)	Understood (9)	write (2)
starting (1)	testifying (1)	Unfortunately (1)	written (18)
State (12)	TESTIMONY (16)	UNITED (1)	wrong (1)
stated (2)	Thank (32)	unlawful (4)	< Y >
statement (1)	thanks (1)	updated (3)	Yeah (3)
statements (1)	things (4)	updates (1)	year (7)
STATES (1)	think (21)	use (3)	years (6)
stayed (1)	thinking (1)	< V >	yesterday (2)
Stenographer (1)	third-party (4)	vacancy (1)	yesterday's (1)
stenographic (1)	thirty (1)	vacation (3)	YORK (4)
stenographically (1)	three (4)	vacations (7)	< Z >
stipulated (1)	thrown (2)	various (2)	Zoom (7)
stop (2)	tied (1)	Venezuela (2)	
stopped (2)	TIME (37)	verbal (11)	
stored (1)	times (1)	verify (1)	
strategies (1)	title (3)	version (3)	
strike (1)	today (14)	versions (1)	
stuff (2)	today's (7)	versus (1)	
submit (1)	told (3)	VILLEGAS (1)	
subordinates (2)	tomorrow (1)	vs (1)	
subscribe (1)	topic (5)	< W >	
suffice (1)	topics (15)	want (10)	
suggest (3)	touch (1)	wants (1)	
Suite (4)	train (6)	warning (3)	
supervise (2)	trained (3)	warnings (12)	
supervisors (1)	training (17)	warrant (1)	
supplemental (1)	transcribed (1)	waste (2)	
suppose (1)	transcript (12)	wasting (2)	
sure (9)	translate (1)		
swear (1)	translation (11)		
sworn (6)			